



W.P(MD)No.83 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2023

CORAM

THE HONOURABLE **MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.83 of 2023

Samsuluha

... Petitioner

Vs.

1.The Passport Officer,
Regional Passport Office,
Madurai District.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Tirunelveli District.

3.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to consider the petitioner's representation, dated 17.12.2022 and renew his passport in file No.MD2074766284322.

For Petitioner : Mr.S.M.A.Jinnah

For R-1 : Mr.B.Rajesh Saravanan
Senior Panel Counsel



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For R-2 & R-3 : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

Heard the learned Counsel for the writ petitioner, the learned Senior Panel Counsel for the first respondent and the learned Government Advocate (Criminal Side) for the second and third respondents.

2. The writ petitioner seeks renewal of his passport. Apprehending that his application may not be processed in view of the petitioner's involvement in Crime No.129 of 2018 registered on the file of Melapalayam Police Station, Tirunelveli, the present writ petition has been filed.

3. When the matter was taken up for hearing, the learned Government Advocate submitted that the final report was filed as early as on 26.04.2019 and that it has been taken on file as PRC No.94 of 2022 on the file of the learned Judicial Magistrate No.V, Tirunelveli. The petitioner is figuring as A8 in the said case. Whenever final report filed by the investigation officer has been taken cognizance, this Court invariably relegates the applicant to move the jurisdictional Magistrate Court or the trial Court. In the case on hand also, I propose to adopt the very same course of action. However, considering the



4. The petitioner is aged about 60 years. His wife is said to be suffering from cancer. The petitioner's son is based in Dubai. The petitioner and his wife want to go on the holy pilgrimage (Umra). The petitioner's son also wants to make some arrangement for treatment of the petitioner's wife. More than anything else, the petitioner is associated with Thowheed Jamath. I carefully went through the contents of the final report. The occurrence had taken place on 26.04.2018. The charge against the petitioner is that he had instigated A1 to A7 to attack the victim (Seyady Ibrahim).

5. There is no other overt act attributed to the writ petitioner. The petitioner is permitted to file an M.P before the learned Judicial Magistrate No.V, Tirunelveli, seeking the relief now sought for in the writ petition. The learned Judicial Magistrate No.V shall allow the same within two weeks after it is filed. It is open to the jurisdictional Magistrate to stipulate appropriate conditions. For instance, the petitioner can be called upon to execute special vakalat, so that the commital proceedings as well as the proceedings before the Sessions Court are not stalled or affected on account of the absence of the



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petitioner from India. After the order of the learned Judicial Magistrate is received, the first respondent shall issue passport to the petitioner for temporary duration subject to the fulfillment of the other usual formalities. Registry is directed to mark a copy of this order to the learned Judicial Magistrate No.V, Tirunelveli. This writ petition stands allowed on these terms. There shall be no order as to costs.

30.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Btr

Note: Issue order copy on 31.01.2023.

To

- 1.The Passport Officer,
Regional Passport Office,
Madurai District.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Tirunelveli District.
- 3.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli District.
- 4.The Judicial Magistrate No.V,
Tirunelveli.



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G.R.SWAMINATHAN, J.

Btr

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